REPORT TO THE SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE



UNITED STATES BY THE COMPTROLLER GENERAL OF THE UNITED STATES



Improvements Needed In Procurement And Financial Disclosure Activities Of The U.S. Railway Association

The Subcommittee Chairman requested GAO to provide information on 13 questions concerning various activities of the Association. This report provides the requested information and, in addition, shows that some weaknesses exist in the Association's procurement and financial disclosure procedures. GAO is making recommendations to correct the weaknesses noted.



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## COMPTROLLER GENERAL OF THE UNITED STATES WASHINGTON, D.C. 20548

B-183495

The Honorable John E. Moss
Chairman, Subcommittee on Oversight
and Investigations
Committee on Interstate and Foreign Commerce
House of Representatives

Dear Mr. Chairman:

Pursuant to your request of March 19, 1975, we have reviewed various activities of the U.S. Railway Association, a nonprofit, mixed-ownership Government corporation, and have compiled information on the 13 specific questions you raised.

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Our review disclosed some weaknesses in the Association's procurement and financial disclosure activities. For example, in the area of procurement we found that:

- --Eight contracts, amounting to \$884,000, classified as competitive were actually sole source;
- --Sole-source justifications for 11 contracts, amounting to \$860,000, were inadequate;
- --No criteria had been developed for determining which type or amount of contracts required approval by the Board of Directors. We identified contracts amounting to about \$1.2 million that had not been submitted for approval.

Although we found no conflicts of interest according to the Association's regulations, which are fairly liberal, we identified ll employees whose financial holdings have the appearance of a conflict of interest. Weaknesses in the Association's monitoring of the financial disclosure system were also noted.

The Association stressed to us that recognition must be given to the fact that their primary mission—to develop a final system plan for restructuring bankrupt railroads in the Midwest and Northeast—had to be done in a relatively snort period of time. Their basic mission was accomplished by submission of the plan to the Congress on July 26, 1975.

If the Congress essentially approves the final plan, the Association, as it exists today, will be greatly phased down. However, there are several legislative proposals being considered by various Committees of the Congress that would greatly increase the Association's future responsibilities. Although it is not clear at this time what the future of the Association is, we are making recommendations to the Chairman of the Board of Directors to correct the weaknesses we found in the Association's procedures.

As agreed with your office, we obtained comments from the Association on the matters covered in this report (see app. III). We also discussed the report with officials of the Department of Transportation and their views were considered.

Also, as agreed with your office on September 19, 1975, we are sending copies of this report to the Association, the Secretary of Transportation, the Director, Office of Management and Budget, and various Committees of the Congress who would be interested in the contents of the report.

Sincerely yours, that

Comptroller General of the United States

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ABBREVIAT	PIONS	
Amtrak ConRail FPR FRA FTS USRA	National Railroad Passenger Corpora Consolidated Rail Corporation Federal Procurement Regulations Federal Railroad Administration Federal Telecommunications Systems United States Railway Association	tion

#### IMPROVEMENTS NEEDED IN PROCUREMENT AND FINANCIAL DISCLOSURE ACTIVITIES OF THE UNITED STATES RAILWAY ASSOCIATION

#### INTRODUCTION

The United States Railway Association (USRA), a nonprofit, mixed-ownership Government corporation, was created by the Regional Rail Reorganization Act of 1973 (Public Law 93-236) and was incorporated in the District of Columbia on February 1, 1974. USRA was created to develop and help carry out a plan to reorganize bank-rupt railroads in the Midwest and Northeast.

The act authorized USRA to identify a rail service system adequate to meet these regions' needs and service requirements and to make recommendations for and to assist in organizing railroads into an enconomically viable system. The act also required the establishment of a for-profit corporation called the Consolidated Rail Corporation (ConRail) to ultimately operate and modernize parts or all of the restructured system.

The Congress prescribed a tight time schedule for completing the planning process. Starting with the enactment date of the law on January 2, 1974, 12 major milestone deadlines were established for the necessary planning and reorganization of the bankrupt railroads and for an ultimate conveyance of selected rail properties to ConRail.

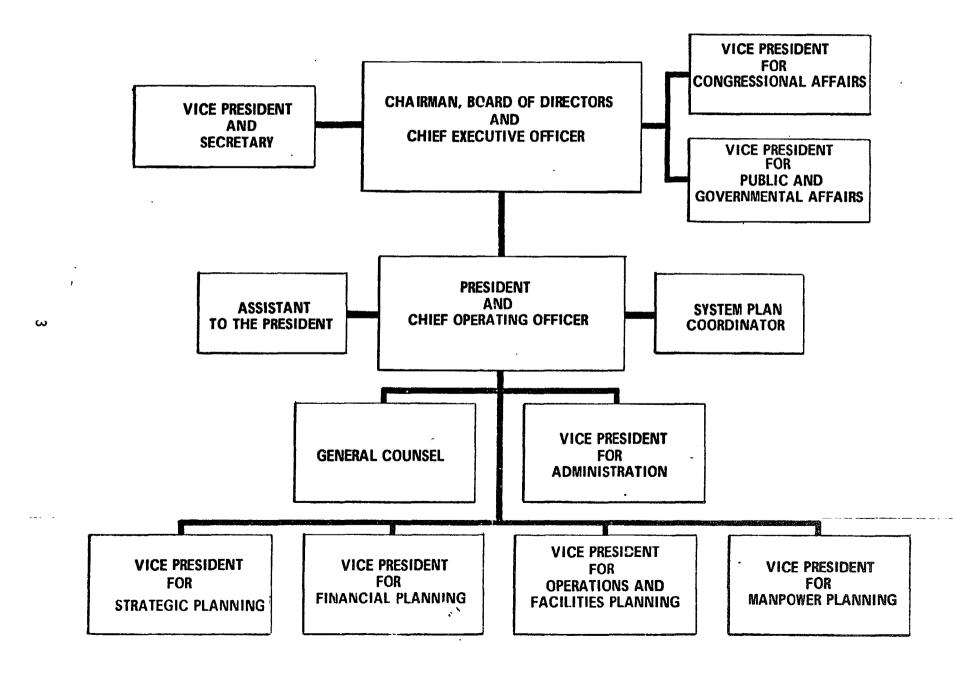
On July 26, 1975, USRA sent to the Congress its final plan for reorganizing the bankrupt railroads.

Appropriations to USRA for operating and administrative expenses totaled \$30 million as of June 30, 1975, and a request for an additional \$10 million was pending in the Congress.

USRA is managed by an ll-member Board of Directors consisting of 3 ex-officio Government members and 8 other members, including a chairman appointed from the private sector. The ex-officio Government members are the Secretary of Transportation, the Secretary of the Treasury, and the Chairman of the Interstate Commerce Commission. The non-Government members are appointed by the President and confirmed by the Senate.

USRA was structured to function as a corporate entity independent of, but closely allied to, more conventional governmental units. Administrative policies and procedures generally are patterned after Federal Government practices to the extent appropriate, but deviations are made to achieve increased effectiveness. USRA's organization chart is shown on the following page.

### **UNITED STATES RAILWAY ASSOCIATION**



#### PROCUREMENT ACTIVITIES (QUESTION 1)

"Have any contracts awarded to outside contractors by USRA been in violation of Federal procurement and bidding regulations?"

Since its inception on February 1, 1974, through June 30, 1975, USRA had initiated procurement actions—contracts, purchase orders, and reimbursable agreements—amounting to about \$20.5 million. As of June 30, 1975, USRA had awarded 102 major contracts totaling \$17.1 million which, according to USRA's procurement office, represented the following types of actions.

Type of action	Number	Amount	
		(millions)	
Competitive	83	\$15.4	
Sole-source	19	1.7	
Total	<u>102</u>	<u>\$17.1</u>	

The \$17.1 million generally excluded pending modifications at the time we reviewed each contract, small purchase items, reimbursible orders with the Department, and contracts with the bankrupt railroads for data which USRA needed in its planning process.

we reviewed in detail 49 of the 102 contracts with a value of \$12.7 million to determine the reasonableness and appropriateness of USRA's actions in solicitating and negotiating with prospective contractors and in awarding and monitoring the contracts.

#### Contracting procedures

Pursuant to the Regional Rail Reorganization Act of 1973, USRA was established as a nonprofit Government Corporation under the laws of the District of Columbia. As such, it is not subject to the Federal Procurement Regulations (FPR). These regulations establish uniform procurement policies and procedures to be followed by executive agencies of the Government and prescribe formal advertising as the preferred procurement procedure.

Section 202(a)(10) of the act gives USRA authority to enter into contracts, leases, cooperative agreements, or other transactions as may be necessary and exempts

it from the requirements of section 3709 of the Revised Statutes of the United States (41 U.S.C. 5) which requires the use of competitive bidding in awarding contracts.

USRA officials told us that, although USRA was not subject to FPR, it generally followed the contracting procedures contained in the regulations. However, because of the nature of USRA's mission and the relatively short time mandated by the Congress to complete its mission, USRA often found it necessary to expedite the awarding of contracts. USRA did not develop written contracting procedures, except for a two-page document setting forth a policy statement and procedures for expedited procurements. The document states that:

"To the fullest practical extent, USRA will use competitive procurement methods in accordance with best commercial practices. Non-competitive or sole source awards shall be limited to situations in which there is only one uniquely qualified source. Where a contract award must be made in less time than full competitive procedures permit, this abbreviated competitive procedure may be used. Because of the urgency imposed on the Association by statutory deadlines set forth in the Regional Rail Reorganization Act of 1973 this procedure shall be employed for all procurements where required to meet those deadlines."

The expedited procurement procedures prescribe that the contracting officer accelerate the contract award process by

- --using telephone contacts (generally with at least three firms), instead of written invitations for bids;
- --meeting with interested firms 2 or 3 days after the initial contact;
- --requiring submission of written proposals in a very short time; and
- --expediting the review, analysis, and selection process.

#### Noncompetitive contracts

According to USRA, when the opportunities for competition existed, it considered a contract to have been awarded on a competitive basis. Thus USRA believes competition has been established when one of the following conditions exist: (1) discussing in-house the qualifications and capabilities of numerous firms, (2) contacting several companies by telephone for certain information, (3) inviting numerous firms to participate in meetings with USRA officials, or (4) requesting bids by telephone or in writing.

As shown on page 4, USRA considers that it has awarded 83 competitive contracts and 19 sole-source contracts. For the reasons stated below, we believe that some of the 83 contracts were not awarded on a competitive basis.

FPR requires that contracts be awarded on a competitive basis "to the maximum practicable extent" and that bids or proposals be solicited from "all such qualified sources as are deemed necessary by the contracting officer to assure such full and free competition as is consistent with the procurement of types of supplies and services necessary to meet the requirements of the agency concerned." Although FPR allows noncompetitive procurements under appropriate circumstances, we believe that FPR requires the following elements, as a minimum to be present before an award may be considered competitive.

- --Firms to be considered should be contacted and made aware of the requirements of the needed service.
- --Firms should be given an opportunity to make a proposal if interested.
- --Selection should be made generally on a basis of written proposals, including price, made by firms and evaluated according to established criteria.

The following examples of contracts, which USRA classified as being awarded on a competitive basis, were awarded, in our opinion, on a noncompetitive basis because competing firms were not contacted and the selection was not made from proposals submitted by competitors.

- --A contract for \$10,000 for a legal review of certain facilities and equipment valuation programs was considered by USRA as competitive because the qualifications of other firms were discussed in-house, although none were contacted.
- --A contract for \$12,588 to provide legal services in connection with the incorporation of ConRail was classified as competitive by USRA because the qualifications of a number of firms were discussed in-house, and one firm was contacted for a cost estimate of one segment of work to be done.
- --A contract for \$128,500 to search for professional staffing was considered competitive because the qualifications of 28 firms were discussed in-house, and contact was made with two firms who USRA believed were qualified to perform the work. Informal price quotations were received from the two companies, but no other firms were contacted or made aware of the solicitation.

Using the above indicated elements as to what we believe constitutes competition, we identified eight noncompetitive contracts amounting to \$884,000. When added to the 19 sole-source contracts identified by the procurement office, the total was 27 noncompetitive contracts amounting to \$2.6 million, or 15 percent of USRA's \$17.1 million worth of procurements.

### Justifications for sole-source procurements

USRA's expedited contracting procedures state that noncompetitive or sole-source awards shall be limited to situations in which there is only one uniquely qualified source.

Of the 27 contracts which we reviewed and which appeared to have been awarded on a noncompetitive or sole-source basis, we identified 11 contracts amounting to \$860,000 which had inadequate justifications. There were no records to justify why two contracts were awarded to specific firms. For example, we found no justification for a \$44,000 contract awarded to a firm to provide management and recruitment services.

Nine additional contracts appeared to have inadequate justifications for awarding on a sole-source basis. The contract records showed generalizations about special qualifications of the contractor, but they did not show how or why the qualifications were different from those of other contractors. For example:

- --Contract for consultant services \$27,000--This contract was to provide suggestions for improving operations concerning manpower requirements and utilization and to advise and assist in analyzing the employee protection provisions of the Regional Rail Reorganization Act of 1973. However, the justification for this contract did not show how or why the consultant is unique. His labor experience and knowledge of railroad operating rules appeared extensive, but the records did not show that others did not possess similar or possibly superior qualifications.
- --Contract for consultant services \$85,000--This contract was to improve communication with local and State governments, the general public, and others concerned with USRA's mission. Because of the contractors' background in transportation and knowledge of these groups, they were considered unique. However, details as to the extent of the contractor's background was not shown, nor was there any indication that others did not possess similar or greater knowledge of groups concerned with transportation policies.
- --Contracts for management consulting services \$\frac{5610,000-This}{5610,000-This}\$ contract was to assist USRA in its start-up phase of operation. The contractor's specific experience acquired in its previous work with the National Railroad Passenger Corporation (Amtrak) was the reason for considering it to be unique. However, details as to the specific experience acquired at Amtrak were not included in the justification.

## Approval of contracts by the Board of Directors

USRA bylaws specify that USRA affairs be managed by its Board of Directors. It is not clear, however, which contracts (types of services or dollar amounts) are to be approved by the Board, or which ones are to be left to the discretion of lower levels of management. No criteria

were developed for making this determination. Since inception of USRA, 18 contracts amounting to about \$1.2 million have not been submitted to the Board for approval.

About \$927,000 worth of contracts not submitted to the Board were referred to as internal management assistance contracts and included those types of contracts which USRA management officials thought would not make a great contribution to the preliminary and final system plans. For example:

- --\$610,000 in contracts for various management consulting services, including assistance in USRA's start-up phase of operation.
- --\$128,500 contract for executive personnel searches.
- --\$85,000 contract for improvement of communications between USRA and other organizations.

In addition, nine contracts totaling \$250,000 for administrative-type items, such as the purchase of office furniture, were not submitted to the Board for approval.

A representative of one member of the Board expressed concern when he learned of the \$85,000 contract which the Board never approved. The USRA contracting officer explained to him that the contract was an internal management assistance contract and therefore did not have to be submitted for the Board's approval.

The contracting officer also told us that the Board had never imposed written criteria as to which contracts should be presented to the Board for approval. The officer said that the relationship with the Board was very informal and that most important contracts were being submitted. He added that more contracts were probably submitted to USRA's Board of Directors than was generally done in other corporations because of USRA's awareness of the emphasis that the Congress wanted placed on this matter.

According to an official of the Office of the Vice President for Administration, the Board has continued

to receive information and reports on the award and administration of operational contracts (those directly relating to the subject matter of the preliminary and final plans), but the expeditious nature of contract placement and the timing of Board meetings, generally once or twice a month, did not allow for specific Board approval of each contract before placement. He said, however, that the Board always reserved the right to promptly terminate a contract in any situation where it did not agree.

Specific criteria would have been appropriate to leave no doubt as to which contracts were to be approved by the Board. For example, the work done by a management consulting firm appears to fit under USRA's definition of an operational contract, although it was never submitted to the Board. According to the scope of work in the contract, the contractor was to do the following task.

# "Task 2--Develop Approach for Constructing the Final System Plan

"The Contractor shall provide a detailed approach for construction of the Final System Plan to be presented by USRA under mandate of the Act. elements of the system plan shall include (a) the disposition of properties among Consolidated Rail Corporation, AMTRAK, solvent railroads, states, and localities; (b) compensation arrangements, indicating the value of the affected properties and the value of the ConRail securities offered in exchange; (c) ConRail's financial plan-proforma earnings, planned capital structure, and an assessment of the proposed employee stock ownership plan; (d) USRA's funding requirementsestimating the funds USRA should borrow and provide to ConRail, bankrupt railroads not in ConRail, or solvents; and (e) manpower implications-identifying manpower requirements for the ConRail system.

"The Contractor shall describe the approach through a full set of flow charts indicating the activities that must be implemented and the interrelationships. In addition, the Contractor shall specify the interim and final end products that must flow from the analysis."

#### Contract auditing

The majority of contract files that we reviewed contained no evidence that either a precontract or postcontract audit had been made. Under FPR, a preaward audit of the contractors' cost submission should be made on negotiated contracts in excess of \$100,000. FPR also establishes \$100,000 as the dollar amount for contracts which should contain an audit and access-to-records clause which would permit a postaudit. For postaudits, however, USRA has included an audit and access-to-records clause in contracts over \$5,000.

Seventeen of USRA's negotiated contracts were in excess of \$100,000 and, under FPR, would have been subjected to a preaward audit. Preaward audits, however, were made on only two of these contracts. We noted that preaward audits were also made on two other contracts which were under \$100,000.

USRA officials told us that preaward audits were generally not feasible because contract awards had to be made in a 2- to 3-week period. They said it normally took the Defense Contract Audit Agency, which makes contract audits for most Government agencies on a reimbursable basis, 30 to 40 days to make a preaward audit. According to USRA where preaward audits could not be made because of time limitations, USRA often incorporated in the contracts a maximum ceiling on the contractor's fee subject to downward revision only. In addition, USRA relied on its own cost analysis procedures rather than on preaward audits.

USRA officials said they planned to make postaudits on most of their contracts. When contracts are completed, they are referred to USRA's Office of Audit for appropriate action. The status of USRA's Office of Audit activities on completed contracts as of September 19, 1975, follows.

#### Number of contracts

Contracts referred to	
Government agencies	
for audit	27
Contracts currently under audit	
by USRA	4
Audits completed	13
Audits pending	4
No audit scheduled	_1
Total completed contracts	49

#### Contracts in dispute

In most contracts that we reviewed, it appeared that the scope of the contractor's work was adequately understood by both parties and resulted in acceptable work products. However, we identified three contracts which were in dispute as of June 30, 1975, over the scope of work or the acceptability of the work product. A summary of the contracts follows.

--A contractor that was awarded a contract for \$237,790 to develop a salvage and appraised value of various rail facilities claimed it had incurred considerable additional costs above the original price proposal and requested an additional \$261,264 to cover work done in an expanded scope of work.

Because of the urgency of the project, USRA authorized the contractor to proceed with the work on July 26, 1974, although a fixed-price contract was not formally signed until September 10, 1974. In January 1975 USRA increased the scope of work to be done by adding a requirement that the value of certain rail facilities also be determined. In addition, because USRA was not getting what it considered to be a complete product, USRA attempted to further clarify the statement of work. The contractor believed the clarification required a major increase in work beyond the original contract and requested an additional \$261,264 to complete the work. USRA disagreed that the scope of work was increased to the extent claimed by the contractor. The work was 95 percent complete at June 30, 1975, and, according to correspondence in the contract file, only \$100,000 had been paid.

--USRA awarded a \$74,997 contract to a firm on June 19, 1974, to study the scope, quality, and needs of rail passenger service in the region along with analyzing short-to-medium distance corridors that could greatly benefit from improved high-speed service. However, about 4-1/2 months after the award, USRA rejected the contractor's final draft report and terminated the contract because of the poor work quality. As of June 30, 1975, \$50,387 had been paid to the contractor and final settlement will be made after a final audit.

Neither USRA procurement nor technical officials were able to give us any written evidence of how well the contractor was doing during the period before the final draft report. Copies of monthly progress reports from the contractor were given to us, but there was no indication that USRA reviewed or analyzed this material. USRA told us that the project officer was in almost daily contact with the contractor but that no memoranda of conversations were available to indicate any dissatisfaction with the work as it progressed.

--USRA awarded a \$351,989 fixed-price contract on August 30, 1974, to a firm to develop an appraised fair market value of 49 railroad yards and shops at 26 locations for other than railroad use. With 90 percent of the work completed, USRA determined that the quality of work was unacceptable and on January 23, 1975, terminated the contract.

USRA paid the contractor \$150,000 for the data it collected through the termination date and estimated that perhaps \$50,000 additional might have to be paid to resolve contractor's claims. However, the contractor has requested \$265,000 which is \$115,000 more than it has already been paid.

#### Recommendations

USRA used some questionable practices in its procurement activities. We recommend that the Chairman of the Board of Directors take necessary action to insure that:

- --Competition for future contracts is obtained to the fullest practicable extent.
- --Only contracts in which the basic elements of competition are present are classified as competitive.
- --Sole-source justifications are more specific as to the special qualifications of contractors.
- --Criteria are developed to determine which contracts are to be submitted and approved by the Board.

#### Agency comments

In a letter dated October 7, 1975, (app. III) USRA agreed to adopt all of our recommendations on competition and sole-source justifications. USRA did not consider it necessary, however, to formalize criteria for determining which contracts are to be submitted and approved by the Board.

On the basis of the confirmation hearings of the individual Board members, it appears that the intent of the Congress was to have an active Board to direct the affairs of the Association, including the approval of contracts. Thus it seems appropriate that criteria be established to leave no doubt as to which contracts are to be submitted and approved by the Board.

#### PERCENTAGE OF NONCOMPETITIVE CONTRACTS (QUESTION 2)

"Is the percentage of non-competitive contracts awarded by USRA disproportionate to the agency's size, its task and the amounts involved?"

As shown on page 7, 27 noncompetitive contracts had been awarded amounting to \$2.6 million, or 15 percent of USRA's \$17.1 million of procurements.

We are not aware of any guidelines for determining whether the percentage of noncompetitive contracts awarded by USRA is proportionate to the size, task, or dollar amounts involved. USRA officials said that 15 percent is a highly favorable percentage of noncompetitive procurements when compared to other Government activities like the Department of Defense and the National Aeronautics and Space Administration.

# COMPANIES STANDING TO GAIN FROM USRA'S DECISIONS (QUESTION 3)

"Are any companies awarded USRA contracts tied in any formal manner with enterprises standing to gain by final USRA decisions?"

We examined available public records and published information on company affiliation for 14 firms that had contracts with USRA for over \$300,000. We did not identify any companies tied in any formal manner with the USRA contractors that could gain in plans or ventures dealing with future ConRail activity.

The Regional Rail Reorganization Act gave USRA the responsibility for developing a plan to restructure the bankrupt railroads 1/ of the Midwest and Northeast regions of the country into a viable system to meet the rail service needs of the public and the industries which use the railroads. As the railroads undergo reorganization as a result of USRA's planning efforts, it is very probable that a large amount of additional work will need to be done by ConRail, solvent railroads, bankrupt railroads, and State and local governments. It would seem that the increased work possibilities could be undertaken by many of the firms who normally contract with railroads, including those who may have done work for USRA. latter firms may possibly gain work in the future because of USRA decisions; however, it is virtually impossible to determine the specific firms at this point.

### USRA'S RELATIONSHIPS WITH THE DEPARTMENT (QUESTION 4)

"Exactly what is the relationship, formal and informal, between USRA and DOT?"

Although USRA is an independent Government corporation, the nature of its mission required coordination and cooperation with several executive agencies, primarily the Department of Transportation. The Regional Rail Reorganization Act of 1973 directed that, in developing the planning process for restructuring the railroads in the Midwest and Northeast, the Secretary of Transportation submit a report containing his conclusions and recommendations for rail service within and between the several geographic zones of the region and describing the criteria used in developing these conclusions and recommendations. The Secretary's report was issued on February 1, 1974, and it formed the basis from which USRA carried the planning process forward. Therefore both formal and informal technical and administrative relationships have continued between the Department and USRA.

<sup>1/</sup>The bankrupt railroads are the Fenn Central, the Ann Arbor, the Central of New Jersey, the Erie Lackawanna, the Lehigh Valley, the Lehigh and Hudson River, and the Reading.

#### Statutory relationships

In addition, the act itself provides for continuing statutory relationships between the Department and USRA in 11 specific areas. These areas are summarized below.

- 1. The Secretary of Transportation served as an incorporator of USRA pursuant to section 201(b).
- The Secretary, or his duly authorized representative, serves on the Board of Directors (sec. 201(d(2)).
- 3. On the Secretary's recommendation, the Board appoints the President of USRA (sec. 201(g)).
- 4. The Secretary serves on the Board's executive committee (sec. 201 (h)).
- 5. The Secretary established regulations for USRA employees to avoid conflicts of interest and for protecting the public (sec. 202(a)(5)(2)).
- 6. The final plan USRA developed was to be formulated in such a way as to bring about the establishment of improved high-speed, rail passenger service, consistent with the Secretary's recommendations in his September 1971 report entitled "Recommendations for Northeast Corridor Transportation" (sec. 206(a)(3)).
- 7. If either the House or the Senate passes a resolution disapproving the final system plan, USRA, with the cooperation and assistance of the Secretary and the Rail Services Planning Office in the Interstate Commerce Commission, shall prepare, determine, and adopt a revised plan (sec. 208(b)).
- 8. The Secretary guarantees the payment of principal and interest on all obligations issued by USRA (sec. 210(c)).

- 9. The Secretary is authorized, pending the implementation of the final plan, to pay the trustees of railroads in reorganization such sums as are necessary for the continued provision of essential transportation services (sec. 213(a)). (USRA helps the Secretary determine the need for assistance.)
- 10. Before the date on which rail properties are conveyed to Con Rail, the Secretary, with the approval of USRA, is authorized to enter into agreements with railroads in reorganization in the region for acquisition, maintenance, or improvement of railroad facilities and equipment necessary to improve property that will be in the final plan (sec. 215).
- 11. If a State which is eligible for assistance or a local or regional transportation authority has made an offer to purchase any rail property of a railroad, the Secretary is authorized to direct USRA to provide loans to such State, local, or regional transportation authority, not to exceed 70 percent of the purchase price (sec. 403(a)).

### Other relationships

#### Former Department personnel now employed by USRA

Of USRA's 311 full time employees at June 30, 1975, 29 were former employees of agencies of the Department, including 14 retirees. For a further discussion of retired Federal employees see page 19. Most of these employees were formerly employed by the Federal Railroad Administration, Federal Aviation Administration, and Office of the Secretary. Sixteen now work in USRA's Office of Administration with most of the remainder working in the Office of Operations and Facilities Planning and Financial Planning. Some of these employees are former Department employees who had an important role in developing the Secretary's report containing conclusions and recommendations for rail service in the regions, as required by the Regional Rail Reorganization Act.

### Procurement activities

Before USRA procurement personnel were hired, the USRA procurement activities were handled by the procurement personnel of the Department. In addition, the Department's Assistant Secretary for Administration served as contracting officer and treasurer of USRA until July 1974. Department personnel had a considerable impact on the solicitation, selection, negotiations, and awarding of at least 21 contracts amounting to about \$4.4 million. The most important contracts included inventory and asset valuation studies of the existing rail-road equipment and facilities. The information developed under several of these contracts was considered to be a key part of the preliminary and final systems plans.

The Department's participation in these activities is attributed to the fact that the Secretary was an incorporator and had the available capability to do the job.

### USRA located in a Department building

The offices of USRA are located in a building leased by the Department through the General Services Administration and occupied by many of its personnel. Under a reimbursable agreement, USRA reimburses the Department for administrative services, such as office space, utilities, and guard service. USRA officials told us that the location was chosen because of its availability.

USRA officials told us their relationship with the Department was complex because of the several statutory requirements, but they said they have not been influenced by the Department. They pointed out that USRA and the Department have had different views on major issues such as which railroads should be selected to be reorganized and the controlled liquidation concept. The controlled liquidation concept is a method of solving the bankrupt railroads problem in the Midwest and Northeast by distributing their assets to solvent carriers either within or outside the region instead of creating ConRail to operate the restructured system.

## SMALL SHIPPER REPRESENTATIVE ON BOARD OF DIRECTORS (QUESTION 5)

"Has the original enabling statute been violated by non-appointment of a representative of small shippers to USRA's board?"

As previously pointed out, USRA was incorporated on February 1, 1974. It did not have a full Board of Directors, however, until December 20, 1974. As required under the Regional Rail Reorganization Act, the Government members of the Board—consisting of the Secretary of Transportation, the Secretary of Treasury, and the Chairman of the Interstate Commerce Commission—served as the Board until the full Board was constituted. On July 15, 1974, the Senate confirmed the appointment of the Chairman, and six of the required seven nongovernment members were confirmed on June 27. Under the act, six members of the Board, including three nongovernment members, constituted a guorum for transacting USRA business.

Although the act did not specifically provide that the Board include a small shipper representative, it did require that two of the seven nongovernment members of the Board be selected from lists of qualified individuals recommended by shippers and organizations representative of significant shipping interests, including small shippers. The act also required that the selection be made from a list of at least three individuals. It appears that at the time nominations for the Board were submitted by the President, there was some question as to whether Mr. Clifford G. McIntire, a small shipper representative, was selected from a list of at least three individuals. As a result, the Senate did not confirm Mr. McIntire.

On September 12, 1974, the President again nominated Mr. McIntire as the small shipper representative. Mr. McIntire died on October 1, 1974, before being confirmed by the Senate. The President subsequently nominated Mr. Charles G. Shuman on December 20, 1974, and the Senate confirmed him on the same day.

An official of USRA and an official of the Department told us that they did not have documentation as to whether Mr. Shuman was selected from a list of qualified individuals recommended by shipping interests, including small shippers. However, according to Mr. Shuman, he was recommended by both the American Farm Bureau and the National Council of Farmers Cooperatives. Since these organizations represent farmers, it would appear they represent small shippers.

RETIRED FEDERAL EMPLOYEES WORKING FOR USRA (QUESTIONS 6 AND 7)

"Are there retired Federal workers on USRA's payrolls, and if so, how many?

"If so, how many are DOT retirees, and/or people who originally entered government as Schedule 'C's'?"

The Regional Rail Reorganization Act provides that employees of USRA are not employees of the Federal Government. As a result, retired Federal employees could be hired by USRA at no reduction in their pay, as is required it such employees were hired by a Federal agency (5 U.S.C. A. 8344).

According to USRA personnel records as of June 30, 1975, a total of 24 retired Federal employees were working full time at USRA. This represented about 8 percent of USRA's total work force of 311 employees.

Federal retirees had previously worked at Several Government agencies; most of them had been with various agencies of the Department of Transportation. The following table shows the number of retirees and the agency from which they retired.

	Number	of	retirees
Department of Transportation Federal Aviation			
Administration Office of the Secretary of		8	
Transportation Federal Railroad		4	
Administration		1	
Federal Highway Administrtion		1	
Total		14	
National Aeronautics and Space Administration		2	
Government Printing Office Office of Economic Opportunity		1 1	
National Security Agency Department of Health, Education,		1	
and welfare		1 1	
Office of Management and Budget Department of Commerce			
Defense Contract Audit Agency U.S. Congressman		1 1 1	
Total		24	

Only one of the retirees--from the Office of Economic Opportunity--was also previously employed in the Federal Government as a Schedule C employee. A Schedule C employee is one whose position is of a confidential or policy determining character and is excepted from the competitive service. Such appointments are made without examination by the Civil Service Commission.

According to USRA payroll records, all of the retirees except one are on an annual salary basis. One individual is employed full time at \$100 a day or \$24,000 a year. USRA salaries for the 24 retirees range from \$17,000 to \$50,000 a year. The average annual salary is \$30,950. Many retirees were offered salaries close to their previous salaries as Government employees and started working for USRA shortly after they retired. This information is summarized in the following table.

# SALARY AND EMPLOYMENT DATA OF THE 24 EMPLOYEES RETIRED FROM THE FEDERAL GOVERNMENT

Date employed by USRA	Date retired from Federal service	Prior Federal salary	Current USRA salary
3-20-74	6-30-73	$a_{\$43,040}$	\$36,000
9-30-74	8- 2-74	21,578	20,500
6-10-74	6- 7-74	28,287	31,110
12- 1-74	5-24-73	$\alpha$ 43,040	34,000
9-23-74	9-20-74	29,903	<del>28</del> ,200
4-29-74	6-30-72	28,287	29,000
4-29-74	6- 1-71	25,863	23,000
6-24-74	6-21-74	34,857	32,000
3-27-74	12-28-73	$^{\alpha}$ 41,550	30,000
3-30-74	3-29-74	a 43,000	42,000
4- 1-74	3-29-74	22,055	25,000
5- 1-74	7-31-71	30,711	24,000
10-29-74	10-28-74	32,031	28,000
5-20-74	5-18-74	26,189	22,000
12-30-74	12-27-74	a 36,915	30,000
6- 3-74	3-30-70	33,000	38,000
9- 9-74	8-30-74	34,811	24,000
3-18-74	6-30-73	a 42,926	50,000
1- 6-75	12-31-74	a 37,770	30,000
6- 3-74	12-15-74	33,915	32,000
1- 9-75	12-28-73	24,122	17,000
6- 3-74	5-31-74	33,915	36,000
1- 3-75	1- 2-75	42,500	50,000
8- 5-74	8- 2-74	34,800	31,000

a/Salary limited by 5 U.S.C. 5308 to the rate for level V of the Executive Schedule (\$36,000 as of October 14, 1973).

#### USRA TELEPHONE SERVICE (QUESTIONS 8 AND 9)

"Is the number of FTS and related phone lines at USRA out of proportion to the agency's size and number of employees?

"Are there, in fact, more FTS lines than USRA employees?"

As of June 30, 1975, USRA had 332 telephones with 239 different telephone numbers. All USRA telephones have both Federal Telecommunications Systems (FTS) and a commercial capability. As of this same date, USRA had 311 full time personnel, or about 1.07 telephones per employee. There was no criteria for judging whether such a ratio was high or low. A General Services Administration official informed us that there was no fixed standard because the number of telephones an agency had was directly related to the requirements of individual offices.

Also most Federal agencies, including USRA, provide office space and telephone service temporarily for some contractor personnel and visiting Federal agencies. However, as shown in the following chart, a comparison between USRA and five Department headquarters agencies shows that USRA's ratio of telephones to employees was about the same.

Agency	Employees	Phones	Phones per employee
Federal Aviation			
Administration	29 29	2767	.94
Federal Highway			
Administration	1858	1794	.97
Federal Railroad			
Administration	330	367	1.11
Office of the Secretary	1385	1417	1.02
Urban Mass Transportation			
Administration	348	405	1.16

# EMPLOYEES INVOLVED IN PUBLIC RELATIONS AND MEDIA CONTACTS (QUESTION 10)

"How many USRA workers, numerically and percentage-wise, are engaged in public relations and media contact work?"

USRA established an Office of Public and Government Affairs under a vice President to be the focal point for public relations work and contacts with the various media. This function is carried out by two different organizations—an Office of Public Information and an Office of Regional Affairs.

The Vice President is the principal USRA officer responsible for promoting relations with the general public; news media; Federal, State, and local government agencies; and other interested groups. He serves as the principal channel between USRA and these groups in the development and promotion of USRA policies and activities.

The office of Fublic Information provides a full range of news services, including preparation and distribution of news releases to the communciation media and preparation of briefings and publications. This office also arranges for public statements, press conferences, and interviews of USRA officials.

The Office of Regional Affairs is charged with maintaining close relationships with State and local governments and other public and private groups to assure meaningful communication with USRA. The office also monitors the communication media and tells USRA officials or important actions, attitudes, and trends as they relate to USRA affairs.

Of USRA's 311 full time personnel at June 30, 1975, 31, or 10 percent, worked for the Office of Public and Governmental Affairs. These employees consisted of 20 regular full time employees, 5 indefinite employees (full time employees but not eligible for certain fringe benefits) and 6 temporary employees.

For the fiscal year ended June 30, 1975, USRA had obligated, or committed, a total of \$751,209 for the Office of Public and Government Affairs as follows.

	Salaries and benefits	Travel and Administrative expenses	Contract service	<u>Total</u>
Office of Vice				
President	\$178,539	\$25,116	\$61,659	\$265,314
Office of Public Information	202,380	12 217		215 607
Office of	202,300	13,317		215,697
Regional Affairs	256,655	13,543		270,198
Total	\$637,574	\$51,976	\$61,659	\$751,209

Included in the contract services were (1) a contract in the amount of \$13,906 to a public relations firm to provide public relations support for the Board Chairman's visits to State capitals, (2) \$4,189 to a consulting firm to study and analyze the impact of the USRA plan on the affected congressional districts, (3) \$41,314 represents the Office's allocation of computer service costs, and (4) \$2,250 for film services.

In addition to the employees and contractors under the Office of Public and Government Affairs, the Chairman of the Board of Directors, the President, a number of Vice Presidents, and others have had contact with the news media and participated in normal public relations work, such as giving speeches.

Also, during our review of USRA procurement activities, we identified a contract for \$85,000 which had been awarded to both a law firm and a consultant for certain public relations work. USRA had not classified this expenditure as a cost of the Office of Public and Government Affairs, but rather had classified it as an expenditure under the Office of the Chairman of the Board. It appeared to us that the services done under this contract—to improve communication with local and State governments, the general public, and others concerned with USRA's mission—were the same as those done by the Office of Public and Government Affairs. USRA officials told us that the contract was necessary because of certain inadequacies in the capabilities of their in-house personnel.

# FINANCIAL DISCLOSURE SYSTEM (QUESTIONS 11, 12, AND 13)

"The enabling legislation states that the Secretary of Transportation shall establish rules to 'avoid conflicts of interest and to protect the public interest.' Has the Secretary of Transportation set up these requirements?

"If so, has there been compliance in the form of filing of required financial disclosure and conflict of interest statements by all appropriate USRA personnel?

"Does an examination of these filings reveal conflicts of interest or questionable financial holdings, including stocks of rival forms of transportation?"

The Regional Rail Reorganization Act of 1973, section 202(a)(5)(2), provides that no individual may hold a position in USRA "\* \* \*in violation of regulations which the Secretary [of Transportation] shall establish to avoid conflicts of interest and to protect the interests of the public." On January 30, 1974, the Secretary of Transportation published in the Federal Register the required regulations prescribing standards of ethical conduct and financial reporting requirements for USRA employees. (See app. II for a copy of the published regulations.)

The regulations were designed to protect USRA and the public from conflict of interest problems but, at the same time, to recognize the necessity of USRA to enlist experienced railroad personnel; hire employees of railroads and companies involved in the railroad industry; and, in some cases, to hire such employees while they were on leave of absence from their present employers.

Section 13 of the regulations concerning financial interests states that:

"\* \* \*an employee may not have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his Association duties and responsibilities."

Section 15 of the regulations defines a conflict of interest as existing:

"\* \* \*whenever the performance of the duties of an employee has or appears to have a direct and predictable effect upon a financial interest of such employee or of his spouse, minor child, partner, or person or organization with which he is associated or is negotiating for future employment."

### Employees required to submit financial statements

Under section 31 of the regulations, each employee meeting the following requirements is required to submit a financial interest statement:

- "(1) Each employee who within the preceding two years was employed by or served as an attorney or consultant to, a railroad or a company significantly engaged in the manufacture, construction or supply of railroad facilities and equipment \* \* \*."
- "(2) Each employee who is in a position identified in Appendix 2 [of the regulations]."

Section 31 indicates that each employee in a position identified in appendix 2 was required to file a financial disclosure statement; however, appendix 2 was never issued. USRA officials told us that since they followed a general rule of requiring the filing of financial disclosure statements from all employees at the level of an Office Director or above and at one level below the Office Director, a listing of positions as required by the regulations was not deemed necessary.

USRA officials told us that the Office of Personnel and the Office of General Counsel had jointly determined—shortly after the establishment of USRA—which positions were required to file financial interest statements. Although USRA officials could not provide us with documentation as to who was required to file, they said their intended criteria would have included the following positions:

- 1. All officers except presidential appointees.
- 2. All office directors.
- 3. Employees occupying offices at the first level below the Office Director of Procurement, Financial Planning, Comptroller, General Counsel, and Operations and Facilities Planning.
- 4. All employees who within the preceding 2 years were employed by or served as an attorney or consultant to a rail-road or a company engaged in the manufacture, construction, or supply of railroad equipment.
- 5. All consultants.

Under this criteria, 73 employees should have had financial statements on file at the start of our review. However, out of a total of 74 statements on file, only 55 were required statements under the above guidelines.

The Assistant General Counsel, who has been delegated the responsibility for the financial disclosure system, told us that when we started our review the decision was made to make an indiscriminate levy on employees to file financial statements, not because they were required to file, but to be ready for any reaction we might have to the standards used. He told us that this request was not in writing, but the word was passed to the employees in an informal manner. Subsequently, our review showed that 97 additional employees filed the financial disclosure statements for a total of 171 statements on file, or about 55 percent of USRA's 311 employees at June 30, 1975.

# USRA procedures for monitoring financial disclosure system

USRA officials told us that no written procedures were developed to insure that those required to file financial statements did so or guidelines developed for the official charged with reviewing the statements. Through discussions with the officials involved, we learned that the following procedures were generally followed.

Using the unwritten criteria stated on page 27 as to which positions were required to file financial statements, the Office of Personnel was charged with the responsibility of obtaining the statements from the

employees within 30 days after their employment. At the time employees entered on duty, they were given a copy of the published regulations and required to sign a memorandum of understanding concerning their employment, which included the statement "I have read and understand the conflict of interest regulations." For those required to file statements, a copy of the form used and instructions for filing were provided.

The submitted statements were then forwarded by the Office of Personnel to the Assistant General Counsel who reviewed the statements for possible conflicts of interest and resolved any problem cases. The Assistant General Counsel told us that he used professional judgment in the review process based on the type of financial interest, the amount of the investment (which is not shown on the statements but must be obtained through discussion with the employee), the job position of the employee, and the geographic region of the financial interest.

The review process, however, was not documented by the Assistant General Counsel as to whether further specific criteria were used, whether any questionable interests were discussed with the employee, or, in fact, whether the statements were reviewed by him. We learned, however, that at least six employees were officially notified to divest themselves of specific interests which the Assistant General Counsel determined either represented a conflict of interest or had the appearance of a conflict of interest.

Since the reviewing official generally did not document his review, we were unable to verify his statement that a full review had been conducted. For example, following our review of the financial interest statements, we brought to the Assistant General Counsel's attention two employees who we believed had ownership interests in competing modes of transportation. Although there was no indication in the records that the employees had divested themselves of the questionable holdings, he subsequently provided us with the following information on these two cases.

- --The official of USRA had ownership in a trucking organization which competed with railroads. He divested his holdings within 3 months after coming aboard, which was before the preliminary system plan date. The reviewing official permitted this period of time because of the relative large holdings and because he felt that nothing this man could do during the period of divestiture could influence the value of that stock.
- --The official of the USRA Office of Administration who was listed as owning less than 40 shares of stock in an auto manufacturer in a portfolio of 6,000 shares of assorted nonconflicting companies also divested his holdings. His portfolio was discussed with him and the auto stock identified not as a conflict, but as the only one that might be considered to be conflicting. Although not requested to divest his holdings he did so anyway in August 1974.

On the basis of our review of the filed financial disclosure statements, using the criteria contained in the Secretary's published regulations, we found no apparent conflicts of interest other than those already identified by the Assistant General Counsel and on which action had been taken.

### Timeliness and completeness of statements

Section 33 of the regulation requires each employee Subject to the reporting requirements to:

"\* \* \*submit his employment and financial interest statement to the General Counsel within 30 days after entering the employment of the Association."

Of the 171 statements filed, 87, or about 51 percent, were submitted more than 30 days after the employee entered employment. There were an additional five statements that were not dated. We determined that 82 of the 87 employees who had filed late statements were those

filed after our review was started. (See p. 28.) On the average, the 82 statements were submitted 255 days, or about 8-1/2 months late.

Considering just those 73 employees which, according to USRA, would have been initially required to file, we found that as of June 30, 1975:

- --15 statements were submitted late, ranging from about 1 month to over 9 months, and
- --3 statements--2 from Vice Presidents and 1 from an Office Director--were not dated.

#### List of positions not exempt

Appendix I of the published regulations lists categories of financial interest which are deemed by the Secretary to be too remote or too inconsequential to affect the integrity of an employee's services in any manner in which he may act in his official capacity. Among other things, these exemptions include ownership of stocks, bonds, or other corporate securities if the current aggregate market value of securities so owned in any single corporation is less than \$10,000 and is less than 1 percent of the outstanding stock of the organization concerned, and if the employee and his family are not active in the management of the organization.

The regulations require that section II of appendix I list any positions to which the above exemptions would not apply. The regulations provide that the list of positions be filed at a later date and include employees having specific responsibility as a part of his regular duties for conducting inspections or issuing certificates, waivers, exemptions or approvals. No list, however, was ever developed or published in the Federal Register.

It appears that the Secretary's regulation provided for the possibility that some positions in USRA could be of such a sensitive nature that, regardless of the dollar amount of investment in railroads or other transportation modes held by an employee in those positions, these investments would at least give the appearance of a conflict. One of the Department officials who had participated in the preparation of the regulations

applying to USRA told us it was the Department's intention that USRA would develop such a list and submit it for publication in the Federal Register.

The Assistant General Counsel told us that there were no employees with such duties in USRA and hence no appendix listing was required.

# Questionable financial holdings

Although we found no apparent conflicts of interest according to the regulations, we noted the general liberalness of those regulations when compared to other Federal agencies.

As stated previously, section 13 prohibts employees from having a financial conflict of interest and section 15 defines a conflict as existing whenever the employee's duties have or appear to have a direct and predictable effect upon his financial interest. Appendix I of the regulations lists exemptions from the above financial prohibitions because they are supposed to be too remote or too inconsequential to affect the integrity of the employee's services.

The one exemption we noted as being liberal was part I(a)(2), ownership of stocks, bonds, and other corporate securities having a current aggregate market value in any single corporation of less than \$10,000 and less than one percent of the outstanding stock. Some Government agencies have no dollar amount of exemption.

Department officials told us that the regulations applying to USRA generally were patterned after the Department's financial disclosure regulations. The latter regulations, however, provide for a \$5,000 exemption from possible conflict of interest. The higher amount was adopted for USRA because many of USRA's employees could come from the railroad industry which generally had a large capitalization structure and, therefore, presumably, a \$10,000 investment would represent a small ownership portion.

Because of the wide spread differences between Government agencies as to the financial review process, criteria used for determining conflicts, etc., we have undertaken a Government-wide study of financial disclosure systems with a view towards proposing more systematic, documented, and standardized procedures.

Because of our concern about the liberalness of USRA's regulations, we reviewed the financial statements filed by USRA employees according to its regulations. We applied the criteria that ownership of stocks, bonds, and other corporate securities of railroads in general and airlines, auto and truck manufacturers and/or leasors operating in the geographic area which USRA was most concerned with, regardless of current aggregate market value, would constitute the appearance of a financial conflict of interest.

Under this criteria we identified 11 employees that would have the appearance of a financial conflict of interest. Although these employees' interests were not in conflict under regulations applying to USRA, the liberalness of the regulations was shown in allowing what otherwise could be construed as apparent conflicts. In five of these cases, the employees were those who would not have been required to file financial disclosure statements under USRA's original criteria but who did so after we started our review.

We presented these cases to USRA officials for their comments. The USRA Assistant General Counsel gave us a synopsis of each of the ll cases together with his comments. Since the employee's interests were not in conflict under the regulations applying to USRA, the exact titles and other information that would further identify the employee is not presented. The cases and the reviewing official's comments follow.

- l. An important official of USRA, who works closely with the Chairman, holds a stock interest in a competing mode of transportation. He owns 200 shares of an airline stock—worth about \$5,000. The reviewing official does not regard the airline, a transcontinental passenger carrier, as significantly competitive with the rail freight industry with which USRA was concerned. Also he believes the employee's financial interest was so low that no action he took in connection with his duties could materially affect his personal fortune.
- 2. This employee works on capital structure in the Office of Financial Analysis. His interest consists of an option to buy 300 shares of stock in a railroad at 29. The reviewing official believes that because the railroad is outside the region, and the stock at last reports was selling at 25-1/8th, the option, is worth practically nothing. This employee could not do

anything in his USRA duties that could have any really material impact on this investment or his financial status.

- 3. This employee works on strategic planning. He holds six shares of a railroad stock worth about \$200 in a portfolio worth more than \$100,000. He also holds 27 shares of stock in an auto manufacturer. The reviewing official regards the railroad holdings as insignificant. He also does not regard holdings in the auto company as a conflict of interest since it makes both locomotives and trucks. He said that in any event 27 shares is not that important of an investment.
- This employee works on problems of competition in USRA operational planning. He has, in a portfolio which includes 23 stocks, 30 shares of stock in an airline, 100 shares in a company that manufacturers auto products, and 188 shares in a company that has a controlling interest in a firm which rents trucks. The reviewing official does not regard a small holding in the airline as creating a problem of a directly competing mode of transportation since the airline is in the passenger business and USRA is dealing with the freight industry primarily. The company which manufacturers auto products is not considered directly competitive with anybody in the railroad business. With regard to the company that owns a firm that rents trucks, the reviewing official does not regard this kind of secondary conflict as a conflict of interest.
- 5. This employee is responsible for work in planning coordination and consolidation of facilities. He owns 50 shares of stock in a railroad worth less than \$1,500. Because the railroad is not in the region it is not considered to be in conflict with the employee's duties.
- 6. This employee works on analytical efforts affecting local services' plans and passenger planning work. She holds less than 50 shares of a railroad stock worth about two to three thousand dollars, but the reviewing official believes nothing she could do in her work could materially affect that investment.
- 7. This employee is involved in facility consolidation and coordination planning efforts. He holds 50 shares of stock in a regional railroad worth about \$3,500. However, the reviewing official does not

believe this employee's work and decisions would have any material affect on the value of his investment.

- This man is a financial consultant advising on capital structure for ConRail. He holds some modest stock interest in a railroad and is also acting as a financial consultant to others in the railroad business. The reviewing official said: "The matter was discussed at length with him and the head of the office involved. The employing office was thus fully aware of the conflict. We were faced with a dilemma in this case; we needed an expert consultant in railroad capital structure. Anyone we might want to hire would have to have had recent experience in advising railroads and investors about the market in railroad securities. Such a person would be bound to have past, present and future conflicts. We settled the matter by agreeing that the man could be used, but the office head would have to isolate him as much as possible from policy formulations, using him primarily for historical and descriptive tasks, and that any input in other areas would have to be filtered, considering possible bias. I was informed by the Office Director that his arrangement was scrupulously followed."
- 9. This consultant works intermittently for the Office of Administration providing technical advice on the subject of Government corporations. He owns stock in two auto manufacturers but because the reviewing official believes he has no input to any policy decisions and that the companies are only secondarily involved with the trucking industry, no particular conflict is involved.
- 10. This man is a consultant working for the marketing and economic analysis section. He holds 125 shares of stock in an auto manufacturer in an 11 company portfolio of over 800 shares. The reviewing official does not regard that number of shares as a large investment and does not believe the auto manufacturer is materially involved in a directly competing mode of transportation.
- ll. This employee is employed solely in connection with editing of the preliminary and final system plans for brief periods. He had no duties other than to blue pencil manuscripts and to proofread finished materials. He holds less than 50 shares of stock in an auto manufacturer. The reviewing official does not regard his position as sensitive and does not regard the stock holding as either large or of a conflicting nature.

# Recommendations

Although our review disclosed no conflicts of interest according to USRA's regulations, we believe the effectiveness of the financial disclosure system should be improved. Therefore, we recommend that the Chairman of the Board of USRA initiate action to insure that:

- --Specific guidelines are developed for reviewing the financial interests of USRA employees.
- --USRA's Employee Responsibilities and Conduct Regulations are complied with, in respect to:
  - 1. Publishing a list for appendix 2 in the Federal Register of positions required to submit financial statements, as required by section 31.
  - 2. Taking steps to insure that each employee subjected to the reporting requirements does, in fact, file within 30 days after entering employment, as required by section 33.
  - 3. Publishing in the Federal Register a list of positions for which the exemptions of appendix 1 do not apply or appropriately amending the regulations pertaining to appendix 1.

In addition, the Civil Service Commission--responsible for approving financial disclosure regulations of executive agencies -- recently issued new procedures to strengthen certain aspects of agencies' financial disclosure systems. Although USRA is not subject to Civil Service requirements, we believe the new procedures would be useful at USRA in making its program more effec-As of June 1975 reviewing officials in executive agencies must sign and date each financial disclosure statement signifying reviewers' approval. The Commission also requires that the reviewing official submit to another management level a statistical report showing the number of statements required, the number received, and the results of the review such as the number approved and those awaiting final resolution, including a presentation of the problem and its handling.

Accordingly, we also recommend that the Chairman of the Board require that the reviewing official:

- --sign and date financial disclosure statements to indicate they have been reviewed and a determination has been made that the financial interests are not conflicts of interest, and
- --periodically report the results of his review of the financial disclosure statements to the President of USRA.

### Agency comments

In a letter dated October 7, 1975, (app. III) USRA agreed to carry out all the recommendations relating to the financial disclosure system, except for developing specific guidelines for reviewing the financial interests of USRA employees. USRA said that, in their opinion, the guidelines presently in the regulations are sufficiently specific. We believe, however, the existing regulations are too vague to serve as guidelines for the review of employees' financial disclosure statements. We recognize that the current reviewing officials' judgment in the review process resulted in divestitures of apparent conflicts of interest, however, without specific guidelines, another individual in the position of reviewer may not exercise the same judgment.

#### SCOPE OF REVIEW

We made our review at headquarters of the Department of Transportation and USRA in Washington, D.C. We reviewed the basic legislation authorizing USRA and its related regulations, procedures, and practices; examined pertinent records, files, and documents; and discussed related matters with Department and USRA officials.

APPENDIX I

JOHN E. MOSS

3RD DISTRICT SACRAMENTO, CALIFORNIA

> ADMINISTRATIVE ASSISTANT JACK MATTESON

> > LEGISLATIVE ASSISTANT TOM GREENE



APPENDIX I

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GOVERNMENT INFORMATION AND INDIVIDUAL RIGHTS

DEMOCRATIC STEERING AND POLICY COMMITTEE

MOCKATIC STEERING AND FOLICE COMMITTEE

March 19, 1975

INTERSTATE AND FOREIGN COMMERCE COMMITCHAIRMAN,
OVERSIGHT AND INVESTIGATIONS SUBCOMMITTEE

OATURIANI MED HATCHINALIONS SOCCOMMINICE

JOINT COMMITTEE ON ATOMIC ENERGY

March 19, 1975

Honorable Elmer Staats Comptroller General General Accounting Office Washington, D.C. 20548

Dear Mr. Comptroller General:

Research I have conducted into the United States Railway Association, a quasi-independent, Federally-funded entity, leads me to seek closer examination by the GAO of some of its activities.

Since USRA began operations, and as of this writing, it has awarded 63 contracts to outside contractors, totalling some \$16 million. This figure takes on added significance when the original total USRA budget of \$26 million is considered--later increased to \$40 million.

Forty-three contracts, involving more than \$12,640,000 have been awarded competitively. Simultaneously, 20 contract totalling approximately \$3,230,000, have been awarded private companies without competitive bidding. Non-competitive contracts have been awarded in categories of legal services, management consulting, computer work, manpower consultation, maintenance of railroads, graphics, inventory, counseling, personnel searches and public relations; all areas where competition is reputed to thrive. More than 25% of all USRA contracts seem to have been granted without competition. Some, such as those awarded Boeing Computer, McKinsey and Company and Gladstone Associates, involve substantial sums.

APPENDIX I APPENDIX I

Page 2 March 19, 1975

Further, the original legislation creating USRA may have been violated, because a provision guaranteeing appointment of a representative of small shippers to the agency's board has seemingly not been complied with as of this writing, yet USRA was created January 2, 1974.

A number of Department of Transportation retirees are allegedly employed by USRA, where the annual salary is reputed to be a surprising \$20,600. Because USRA workers are exempted by law from being considered Federal employees, government retirees can work there with no benefit loss. Normally, Federal retirees taking another Federal post can earn no more than their annuity. Of some 220 known USRA employees, there are alleged to be at least 20 such retirees.

Finally, GSA informs me that USRA is serviced by some 256 FTS long distance phone lines, plus at least 142 extensions, for a total of 398 lines. GSA informs me the monthly charge for these lines comes to \$3,283.50. There seem to be more lines than workers at USRA.

Given this background data, I seek answers to the following questions:

- (1) Have any contracts awarded to outside contractors by USRA been in violation of Federal procurement and bidding regulations?
- (2) Is the percentage of non-competitive contracts awarded by USRA disproportionate to the agency's size, its task and the amounts involved?
- (3) Are any companies awarded USRA contracts tied in any formal manner with enterprises standing to gain by final USRA decisions?
- (4) Exactly what is the relationship, formal and informal, between USRA and DOT?
- (5) Has the original enabling statute been violated by non-appointment of a representative of small shippers to USRA's board?

Page 3 March 19, 1975

(6) Are there retired Federal workers on USRA's payrolls, and if so, how many?

- (7) If so, how many are DOT retirees, and/or people who originally entered government as Schedule "C's"?
- (8) Is the number of FTS and related phone lines at USRA out of proportion to the agency's size and number of employees?
- (9) Are there, in fact, more FTS lines than USRA employees?
- (10) How many USRA workers, numerically and percentagewise, are engaged in public relations and media contact work?
- (11) The enabling legislation states that the Secretary of Transportation shall establish rules to "avoid conflicts of interest and to protect the public interest." Has the Secretary of Transportation set up these requirements?
- (12) If so, has there been compliance in the form of filing of required financial disclosure and conflict of interest statements by all appropriate USRA personnel?
- (13) Does an examination of these filings reveal conflicts of interest or questionable financial holdings, including stocks of rival forms of transportation?

Please 1st me hear from you at your earliest convenience.

Sing y 21y

John E. Moss

Chairman

Subcommittee on Oversight and

Investigations

Interstate and Foreign Commerce Committee

JEM:TI

App. D

# Title 49—Transportation

BUBPART D—ETHICAL AND OTHER CONDUCT AND RESPONSIBILITIES OF EMPLOYEES

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#### SUBPART A-GENERAL

SECTION 1. Purpose and policy. (a) These regulations implement P.L. 93-236, The Regional Rail Reorganization Act of 1973. They prescribe standards of ethical and other conduct, and reporting requirements, for employees of the United States Railway Association (the Association). The standards and requirements are appropriate to the particular functions and activities of the Association.

- (b) The absence of a specific published standard of conduct covering an act tending to discredit an employee of the Association does not mean that the act is condoned, is permissible, or would not call for and result in corrective or disciplinary action.
- (c) Personnel of the Association shall observe standards of conduct that will reflect credit on the Association.

SEC. 3. Definitions. Unless the context requires otherwise, the following definitions apply in these regulations:

Appendix—United States Railway Association—Employee Responsibilities and Conduct

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ited to."

"Association" means the United States Railway Association established by P.L. 93-236.

"Chairman" means the Chairman of the Board of Directors of the Association.

"Employee" means an officer or employee of the Association.

"General Counsel" means the General Counsel of the Association, or his designee. "Includes" mean "includes but is not lim-

"May" is used in a permissive sense to state authority or permission to do the act prescribed, and the words "a person may not • • • " mean that a person is not required, authorized, or permitted to do the act prescribed.

"Shall" is used in an imperative sense.

Sec. 5. Applicability. These regulations apply to each employee of the Association.

SUBPART B-ETHICAL AND OTHER CONDUCT AND RESPONSIBILITIES OF EMPLOYEES

Sec. 7. General. (a) Each employee shall avoid any action, whether or not specifically prohibited by these regulations, which might result in or create the appearance of—

(1) Using his Association office for private gain;

(2) Giving preferential treatment to any person;

(3) Impeding the efficiency or economy of the Association;

(4) Losing complete independence or impartiality;

(5) Making an Association decision outside of official channels; or

(6) Affecting adversely the confidence of the public in the integrity of the Association.

(b) An employee may not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or any conduct prejudicial to the integrity of the Association.

SEC. 9. Gifts, entertainment, and favors.

(a) Except as provided in paragraphs (b) and (c) of this section, an employee may not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, food, lodging, loan, or other thing of monetary value, from a person or employer of a person

 Has, or is seeking to obtain, contractual or other business or financial relationships with the Association.

(2) Has interests which may be substantially affected by the performance or nonperformance of that employee's official duties.

(b) Notwithstanding paragraph (a) of this section, an employee may—

(1) Accept a gift, gratuity, favor, entertainment, loan, or other thing of value when the circumstances make it clear that an obvious family relationship rather than the business of the persons concerned is the motivating factor;

(2) Accept food or refreshment of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or

other meeting or on an inspection tour if the employee is properly in attendance;

(3) Accept unsolicited advertising or promotional material such as pens, pencils, note pads, calendars, or other items of nominal intrinsic value; or

(4) Accept an invitation addressed to the Association, when approved by the General Counsel, to participate in an inaugural trip or similar ceremonial event related to transportation, and accept food, lodging, and entertainment incident thereto.

(c) An employee may not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself. However, this paragraph does not prohibit a voluntary gift of nominal value or a donation in a nominal amount made on a special occasion such as marriage, illness, retirement, or transfer.

SEC. 11. Outside employment and other activities. (a) An employee may not engage in any outside employment or other outside activity which is not compatible with the full and proper discharge of the duties and responsibilities of his employment with the Association. Incompatible activities include—

(1) Acceptance of a fee, compensation, gift, payment of expenses, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of, a conflict of interest; and

(2) Outside employment which tends to impair his mental or physical capacity to perform his duties and responsibilities of his employment with the Association in an acceptable manner.

(b) An employee may not receive any salary or anything of monetary value from a private source as compensation for his services to the Association.

(c) This section does not preclude an employee from participating in the affairs of, or accepting an award for a meritorious public contribution or achievement given by a charitable, religious, professional, social, or fraternal organization, a nonprofit educational or recreational organization, or a public service or civic organization.

SEC. 13. Financial interests. (a) Except where authorized by statute or these regulations, an employee may not have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his Association duties and responsibilities. In any case in which such a question of financial interest arises the procedures set forth in section 17 apply.

(b) The fact that an employee is on leave of absence from employment with or has served as an attorney or consultant to, a railroad, or a company engaged in the manufacture, construction, or supply of railroad facilities and equipment, or a creditor of a railroad, shall not, of itself, be deemed to be a financial interest conflicting with his Association duties or responsibilities. This provision does not affect the obligation of such

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an employee to submit a statement of employment and financial interest as required

by section 31(a)(1).
(c) The fact that an employee owns shares of stock, corporate bonds, or other corporate securities in any single railroad, or a company engaged in the manufacture, construction or supply of railroad facilities and equipment, or a creditor of a railroad, having a current aggregate market value of \$10,000 or more, or an option to purchase such securities, shall not, in itself, be deemed to be a financial interest conflicting with his Association duties or responsibilities. Such ownership must, however, be reported in a special statement of financial interest, in a manner specified by the General Counsel, which shall be available for public inspection.

SEC. 15. Conflicts of interest. (a) Except where specifically exempted by statute or these regulations, a conflict of interest exists whenever the performance of the duties of an employee has or appears to have a direct and predictable effect upon a financial interest of such employee or of his spouse, minor child, partner, or person or organization with which he is associated or is negotiating for future employment.

(b) A conflict of interest exists even though there is no reason to suppose that the employee will, in fact, resolve the conflict to his own personal advantage rather than to that of the Association.

Sec. 17 Disqualification arising from personal financial interests. (a) Except as stated in paragraph (e) of this section, or except as permitted by statute, an employee may not participate personally and substantially as an employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim controversy, charge, accusation, or other particular matter in which, to his knowledge, he, his spouse, minor child, a blood relative who is a resident of the employee's household, partner, organization in which he is serving as officer, director, trustee, partner or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest. unless he shall cause the financial interest involved to be divested, or request a determination of the propriety of his participation in any matter by informing the General Counsel of the nature and circumstances of the matter and financial interest involved.

- (b) After examining the information submitted, the General Counsel may-
- (1) Relieve the employee from participation in the matter and, if possible, reassign it to another employee who is not subordinate to the relieved employee;
- (2) Approve the employee's participation upon determining in writing that the interest involved is not so substantial as to be likely to affect the integrity of the services

the Association may expect from the employee:

(3) Recommend the reassignment of the employee; or

(4) If none of these alternatives is feasible, direct the employee to cause the financial interest to be divested so that it no longer comes within the scope of this section,

- (c) In any case in which the General Counsel has reason to believe that an employee may have an interest that would be disqualifying under this section, he shall discuss the matter with the employee. If he finds that the interest exists, he may take any of the actions stated in paragraph (b) of this section.
- (d) In any case in which the employee is dissatisfied with the General Counsel's decision, the employee may appeal the matter to the Chairman of the Association for reconsideration and final determination of the appropriate action.

(e) Information concerning categories of financial interests which are exempted from the prohibitions of §§ 13(a), 15, and paragraph (a) of this section as being too remote or too inconsequential to affect the integrity of an employee's interest in a matter, are set forth in Appendix 1.

Sec. 19 Use of Association property or official title. (a) An employee may not, directly or indirectly, use or allow the use of Association property of any kind, including property leased to the Association, for other than an officially approved activity. Each employee has a positive duty to protect and conserve Association property, including equipment, supplies, and other property entrusted or issued to him.

(b) An employee may not, directly or indirectly, use or allow the use of his title or position in connection with any commercial enterprise or in endorsing any commercial product or service.

SEC. 21 Misuse of information. An employee may not, for the purpose of furthering a private interest, directly or indirectly, use or allow the use of official information obtained through or in connection with his Association employment, if that information has not been made available by the Association to the general public.

SEC. 23 Indebtedness. Each employee shall pay his just financial obligations in a proper and timely manner, especially those imposed by law such as Federal, State, or local taxes. For the purposes of this section "just financial obligations" means those that are recognized as such by the employee or reduced to a judgment by a court, and "in a proper and timely manner" means in a manner which the Association determines does not, under the circumstances, reflect adversely on the Association as his employer. The Association will not determine the validity or amount of a disputed debt and will not initiate action to collect such debts.

Sec. 25 Miscellaneous provisions. (a) Each employee shall acquaint himself with these regulations which relate to his ethical and

other conduct as an employee of the Association.

(b) In the appointment of personnel and in assignment of their duties, the President of the Association shall take steps to avoid, to as great an extent as possible, any conflict between the Association duties and the private interests of such personnel.

# SUBPART C—STATEMENTS OF EMPLOYMENT AND FINANCIAL INTEREST

SEC. 31 Employees required to submit statement. (a) Each of the following employees shall submit a statement of employment and financial interest on a form provided by the Association:

- (1) Each employee who within the preceding two years was employed by or served as an attorney or consultant to, a railroad or a company significantly engaged in the manufacture, construction or supply of railroad facilities and equipment, including, but not limited to, rolling stock, terminal facilities, signal equipment, track and road bed, and electrical and communication transmission equipment. The General Counsel shall decide, in a doubtful case, whether the relationship to the railroad industry is sufficiently significant as to require submission of a statement of employment and financial interest.
- (2) Each employee who is in a position identified in Appendix 2.
- (b) Any employee who believes that his position has been improperly included as one requiring the submission of a statement of employment and financial interest is entitled to have that inclusion reviewed by the General Counsel.
- (c) Any employee in a position which meets the criteria in paragraph (a) of this section may be excluded from the reporting requirements of this section if the General Counsel determines that the duties of the position are at such a level of responsibility that the submission of a statement is not necessary because of the degree of supervision and review and the remote or inconsequential effect on the integrity of the Association.

SEC. 33 Time and place for submission of employee statements. Each employee who is subject to the reporting requirements of sec. 31 shall submit his employment and financial interest statement to the General Counsel within 30 days after entering the employ of the Association.

SEC. 35 Supplementary statements. (a) Each employee shall, not later than July 31 of each year, file a supplementary statement, showing, as of June 30 of that year, any change in, or addition to, the information contained in his statement of employment and financial interest. If changes or additions have not occurred, a negative report is required.

(b) Compliance with the reporting requirements of this Subpart is not an alternative to observance of the conflict-of-interest provisions of Subpart B of these regulations,

but is to facilitate uniform compliance with, and the orderly administration of Subpart B.

SEC. 37 Information not known by employee. If any information required to be included on a statement of employment and financial interest or a supplementary statement, including any holding placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit the information on his behalf, and the employee shall so notify the General Counsel.

SEC. 39 Information not required. An employee is not required to submit on a statement of employment and financial interest or supplementary statement any information relating to his connection with, or interest in, a professional society, or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization, or a similar organization not conducted as a business enterprise. For the purposes of this section, educational and other institutions doing research and development or related work involving grants of money from or contracts with the Association are considered to be "business enterprises" and are required to be included in the employee's statement of employment and financial interest.

SEC. 41 Confidentiality of employee's statement. (a) Except for special statements of financial interest required by sec. 13(c) each statement of employment and financial interest and each supplementary statement shall be held in confidence. The reviewing officials and others who receive statements are responsible for maintaining them in confidence and shall not allow access to, or allow information to be disclosed from, a statement except to carry out the purposes of these regulations. Information may not be disclosed to any person outside the Association, except as the General Counsel may determine for good cause shown. No disclosure permitted by this paragraph may be made unless the affected employee has been notified that disclosure is contemplated, and the employee is given an opportunity to present reasons and arguments to maintain the confidentiality of the statement.

(b) Each statement of employment and financial interest and each supplementary statement shall be maintained in the records of the Association.

SEC. 43 Interpretation and advisory service. The General Counsel shall provide authoritative counseling and interpretations to employees who require advice and guidance on questions of conflicts of interest or any other matters of legal import covered by these regulations.

SUBPART D—DISQUALIFICATION OF FORMER EM-PLOYEES IN MATTERS CONNECTED WITH FOR-MER DUTIES OR OFFICIAL RESPONSIBILITIES; DISQUALIFICATION OF PARTNERS

SEC. 51 Matters in which employee participated personally and substantially. Except

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as permitted by sec. 55 hereof, an employee of the Association, after his employment has ceased, may not act as agent or attorney for anyone other than the Association in connection with any judicial or other proceeding, application, request for a ruling or other de-termination, contract claim, controversy, charge, accusation, arrest, or other particular matter involving a specific party or parties, in which the Association is a party or has a direct and substantial interest and in which he participated personally and substantially as an employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, while so employed.

SEC. 53 Matters under employee's official responsibility. Except as permitted by sec. 55 hereof, an employee of the Association may not, within one year after his employment has ceased, appear personally before the Association or any court or department or agency of the Government as agent, or attorney, for anyone other than the Association in connection with any proceeding, application, request for a ruling or other determina-tion, contract, claim, controversy, charge, accusation, arrest, or other particular matter involving a specific party or parties, in which the Association is a party or directly and substantially interested, and which was under his official responsibility as an officer or employee of the Association at any time within a period of one year prior to the

termination of such responsibility.
SEC. 55 Employee with outstanding scientific or technological qualifications. A former employee with outstanding scientific or technological qualifications may act as attorney or agent or appear personally in connection with a particular matter in a scientific or technological field if the General Counsel certifies in writing, in advance, that the public interest would be served by such action or appearance.

SEC. 57 Partner of employee. A partner of an employee of the Association may not act as agent or attorney for anyone other than the Association, in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the Association is a party or has a direct and substantial interest and in which such employee of the Association participates personally and substantially as an employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise or which is the subject of his official responsibility.

APPENDIX 1-CATEGORIES OF FINANCIAL INTES-ESTS EXEMPTED FROM THE PROHIBITIONS OF SECTIONS 13(a), 15, AND 17(a)

I. (a) The following are exempted from the prohibitions of sections 13(a), 15, and 17(a), because they are too remote or too inconsequential to affect the integrity of an employee's services in any matter in which he may act in his official capacity.

(1) Any holding in a widely held mutual fund, or regulated investment company, which does not specialize in the transporta-

tion industry.

- (2) Ownership of shares of stock and of corporate bonds or other corporate securities, if the current aggregate market value of the stocks and other securities so owned in any single corporation is less than \$10,000 and is less than one percent of the outstanding stock of the organization concerned, and if the employee, his spouse, or minor children are not active in the management of the organization and have no other connection with or interest in it.
- (3) Continued participation in a bona fide pension, retirement, deferred compensation, group life, health, or accident insurance plan or other employee welfare or benefit plan that is maintained by a business or nonprofit organization by which the employee was formerly employed, to the extent that the employee's rights in the plans are vested and require no additional services by him, To the extent the welfare or benefit plan is a profit sharing or stock bonus plan, this exemption does not apply.

(b) Notwithstanding paragraph 1(a)(2), the interest of an employee, whose position is listed in section II of this appendix, shall not be exempt from the prohibitions of sections 13(a), 15, and 17(a), with respect to any stock or other security holding in an organization to which he is assigned, or for which he has specific responsibility as a part of his regular duties, for conducting in-spections or issuing certificates, waivers,

exemptions, or approvals.

II. The following is a list of positions to which the exemption in paragraph 1(a)(2) of this appendix does not apply. This list may be amended at any time by the Association.

[To be supplied].

APPENDIX 2-LIST OF EMPLOYEES RE-QUIRED TO SUBMIT STATEMENTS OF EMPLOYMENT AND FINANCIAL INTER-EST UNDER SECTION 31

[Reserved].

(Sec. 202(a) (5) (2) of the Regional Rail Reorganization Act of 1973 (Pub. L. 93-236)) [39 FR 3825, Jan. 30, 1974]

APPENDIX III APPENDIX III

# United States Railway Association

2100 Second Street, S.W. Washington, D.C. 20595 (202) 426-1991

Arthur D. Lewis
Chairman of the Board

October 7, 1975

Mr. Henry Eschwege
Director, Resources and Economic
Development Division
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Eschwege:

In accordance with the request contained in your letter of September 24, 1975, there is furnished herewith the Association's formal comments to the draft report submitted to us for review. The draft report is a proposed report to the Chairman of the Subcommittee on Oversight and Investigations, House Committee on Interstate and Foreign Commerce entitled "Improvements Needed in Procurement and Financial Disclosure Activities of the United States Railway Association."

As is stated in the draft report, USRA is not subject to the Federal Procurement Regulations. Furthermore, the Act creating USRA specifically exempted the Association from the requirement of section 3709 of the Revised Statutes, that competitive bidding be used in the award of contracts. These exemptions were designed to reflect the Association's status as a corporation under Section 201 of the Government Corporation Control Act, as amended, and the stringent deadlines imposed on the regional rail planning process. However, the Association chose to apply the provisions of these regulations to the maximum extent compatible with the timely achievement of its statutory tasks. In spite of the Association's unusual mission and the tight statutory deadlines imposed for its accomplishment, we believe that USRA's

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procurement activities adhered to sound management practices and resulted in the judicious use of the funds provided.

To strengthen further our future procurement activities, we shall adopt those recommendations contained in the draft report which relate to competition and sole-source justifications. We do not, however, consider it necessary to formalize in writing criteria for determining which contracts are to be submitted and approved by the Board since in our opinion, the informal policies have worked well and to the satisfaction of both the Board and the Association's management. The USRA policy and procedures as described in the draft report supports the Association's position that adequate controls are already provided, albeit on an informal basis.

With respect to the financial disclosure system, USRA has by and large complied with the regulations established by the Secretary of Transportation and as the draft report states no apparent conflicts of interest were found during the review. However, we recognize that the effectiveness of the financial disclosure system could be improved. Therefore, with one exception, action will be taken to implement all the recommendations contained in the draft report pertaining to such system. The exception applies to the recommendation that specific guidelines be developed for reviewing the financial interests of USRA employees. It is our opinion that the guidelines presently in the regulations and which have been applied in our review of the statements of financial interest, are sufficiently specific.

We believe that the review conducted by your staff was beneficial in strengthening our administrative procedures and we appreciate the opportunity afforded us to present our formal comments to the draft report. Also, we are most appreciative of the thorough and professional manner in which the review was conducted.

Sincerely,

Cerplan Lever

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